

Assembly Bill No. 1760

Passed the Assembly August 27, 2014

Chief Clerk of the Assembly

Passed the Senate August 26, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 214.06, 214.07, and 214.09 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1760, Chau. Property taxation: welfare exemption: rental housing and related facilities: payment in lieu of taxes agreement.

Existing property tax law establishes a partial welfare exemption for property used exclusively for rental housing and related facilities that are owned and operated by either of any certain types of nonprofit entities or veterans' organizations that meet specified exemption requirements, if either of certain qualifying criteria are met. Existing law requires the owner of the property, in order to be eligible for the exemption, to certify that the funds that would have been necessary to pay property taxes are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower income households.

This bill would, on or after January 1, 2015, prohibit a local government from entering into a payment in lieu of taxes (PILOT) agreement with a property owner of a low-income housing project, and would make any PILOT agreement entered into in violation of this provision void and unenforceable. The bill would establish a conclusive presumption that any payments made under a PILOT agreement entered into before January 1, 2015, comply with the certification requirement described above and were or are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower income households. The bill would define a PILOT agreement to mean any agreement entered into between a local government and a property owner of a low-income housing project that requires the owner of the low-income housing project to pay the local government a charge, as provided, and would define a "low-income housing project" to mean a low-income housing project that is eligible for the exemption described above.

This bill would become operative only if SB 1203 of the 2013–14 Regular Session is enacted and takes effect on or before January 1, 2015.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

(a) In Section 50001 of the Health and Safety Code, the Legislature has long declared that the subject of housing is of vital statewide importance to the health, safety, and welfare of the residents of this state.

(b) The lack of housing, and in particular the lack of decent, safe, and sanitary housing that is affordable to low-income households, is a critical problem that continues to threaten the economic, environmental, and social quality of life in California.

(c) The Legislature, in enacting subdivision (g) of Section 214 of the Revenue and Taxation Code in 1987, determined that the funds that were being paid in property taxes could better be used in furtherance of the goal of providing low-income housing and that a property tax exemption was necessary to ensure that low-income housing properties with restricted rents would be able to provide the residents with a livable community and remain financially feasible over the life of the deed restrictions, generally 55 years.

(d) Payment in lieu of taxes agreements are an issue of statewide concern because of the need to prevent arbitrary and discriminatory financial barriers that prevent construction of needed low-income housing in the state. Therefore, restricting agreements with local governments as set forth in Section 214.06 of the Revenue and Taxation Code is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

SEC. 2. Section 214.06 is added to the Revenue and Taxation Code, to read:

214.06. (a) Notwithstanding any other law, on or after January 1, 2015, a local government shall not enter into a payment in lieu of taxes (PILOT) agreement with a property owner of a low-income housing project. Any PILOT agreement entered into in violation of this subdivision shall be void and unenforceable.

(b) An inference shall not be drawn from the enactment of this section with regard to whether the law, as it read prior to January 1, 2015, authorized a local government to enter into a PILOT agreement.

SEC. 3. Section 214.07 is added to the Revenue and Taxation Code, to read:

214.07. (a) Notwithstanding any other law, it shall be conclusively presumed that any payments made under any payment in lieu of taxes (PILOT) agreement entered into before January 1, 2015, comply with the certification requirements of subparagraph (B) of paragraph (2) of subdivision (g) of Section 214 and were or are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower income households.

(b) An inference shall not be drawn from the enactment of this section with regard to whether the law, as it read prior to January 1, 2015, authorized a local government to enter into a PILOT agreement.

SEC. 4. Section 214.09 is added to the Revenue and Taxation Code, to read:

214.09. For purposes of Sections 214.06, 214.07, and 214.08, all of the following shall apply:

(a) “Local government” means any city, county, city and county, housing authority, housing successor to a redevelopment agency, or a joint powers agency that has approved land use entitlements or building permits, provided land or financing, or approved the issuance of tax-exempt bonds pursuant to the federal Tax Equity and Fiscal Responsibility Act for the low-income housing project.

(b) “Low-income housing project” means a low-income housing project that is eligible for the exemption provided by subdivision (g) of Section 214.

(c) “Payment in lieu of taxes agreement” means any agreement entered into between a local government and a property owner of a low-income housing project that requires the owner of the low-income housing project to pay the local government a charge to compensate the local government for lost property tax revenues resulting from the low-income housing project receiving an exemption pursuant to subdivision (g) of Section 214.

SEC. 5. This act shall become operative only if Senate Bill 1203 of the 2013–14 Regular Session is also enacted and takes effect on or before January 1, 2015.

Approved _____, 2014

Governor